

IN THE UNITED STATE DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

Trial by Jury Demanded

Louise A. Meanwell, Individually and on
behalf of a Minor Child, M.B.,

Plaintiff,

-v-

**ANSWER TO AMENDED
COMPLAINT**

Case No.: 1:13-CV-0624
(GLS/CFH)

Jacqueline Hankle; Jason Bump; Mary Bump;
Ruth Supovitz, as an attorney in both personal
And professional capacity; James Leonard of the
New York State Division of Criminal Justice
Services, individually; Benedict Conboy of the
New York State Division of Criminal Justice
Services, individually and presently unidentified
John and Jane Does,

Defendants.

Defendant, Ruth Supovitz i/s/h/a Ruth Supovitz, as attorney in both personal and professional capacity (hereinafter "Defendant Supovitz"), as and for her answer to the plaintiff's Amended Complaint, by her attorneys WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, alleges as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "1" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

2. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "2" of the Plaintiff's Amended Complaint as they pertain to co-defendants, denies all allegations contained in paragraph marked and numbered "2" of the Plaintiff's Amended Complaint as they pertain to Defendant Supovitz, and refers all rulings of law to this Court.

3. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "3" of the Plaintiff's Amended Complaint as they pertain to co-defendants, denies all allegations contained in paragraph marked and numbered "3" of the Plaintiff's Amended Complaint as they pertain to Defendant Supovitz, and refers all rulings of law to this Court.

4. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "4" of the Plaintiff's Amended Complaint as they pertain to co-defendants, denies all allegations contained in paragraph marked and numbered "4" of the Plaintiff's Amended Complaint as they pertain to Defendant Supovitz, and refers all rulings of law to this Court.

5. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "5" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

6. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "6" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court, but denies that plaintiff sustained any damages as a result of the allegations contained in the Amended Complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "7" of the Plaintiff's Amended Complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "8" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

9. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered “9” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

10. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered “10” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

11. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered “11” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

12. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered “12” of the Plaintiff’s Amended Complaint.

13. Admits only so much of paragraph marked and numbered “13” of Plaintiff’s Amended Complaint that Defendant Ruth Supovitz is an attorney licensed in the State of New York and that Defendant Supovitz also represented defendant Jason Bump in Family Court proceedings in and before 2004 while practicing as a private attorney in the Capital District Region; denies that she was a Law Guardian (now Attorney for the Child); denies that she was a state actor, and/or acted in concert with a state actor for purposes of 42 U.S.C. § 1983 sued in both professional and personal capacities; denies knowledge or information sufficient to form a belief as to the truth of each and every other allegation contained in the paragraph marked and numbered “13” of plaintiff’s Amended Complaint; and, refers all rulings of law to this Court.

14. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "14" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

15. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "15" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

16. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "16" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

17. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "17" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

18. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "18" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court

19. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "19" of the Plaintiff's complaint

20. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "20" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

21. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "21" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

22. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "22" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court

23. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "23" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

24. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "24" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court

25. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "25" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

26. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "26" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

27. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "27" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

28. Denies each and every allegation contained in paragraph marked and numbered "28" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

29. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs "1" through "28" of the Amended Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated "29" of the Amended Complaint.

30. Admits that, in part, the Fourteenth Amendment to the United State Constitution provides that no person shall be deprived "of life, liberty or property, without due process of law" as contained in paragraph marked and numbered "30" of Plaintiff's Amended Complaint.

31. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "31" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

32. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "32" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court

33. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "33" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

34. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "34" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court.

35. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "35" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

36. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs "1" through "35" of the Amended Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated "36" of the Amended Complaint.

37. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "37" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court

38. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "38" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

39. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "39" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court

40. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "40" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

41. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs "1" through "40" of the Amended Complaint with the same force and effect

as if herein set forth at length in answer to the allegations set forth in paragraph designated "41" of the Amended Complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "42" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

43. Denies each and every allegation contained in paragraph marked and numbered "43" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

44. Denies each and every allegation contained in paragraph marked and numbered "44" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

45. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "45" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court

46. Denies each and every allegation contained in paragraph marked and numbered "46" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

47. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs "1" through "46" of the Amended Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated "47" of the Amended Complaint.

48. Denies each and every allegation contained in paragraph marked and numbered "48" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

49. Denies each and every allegation contained in paragraph marked and numbered "49" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

50. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph marked and numbered "50" of the Plaintiff's Amended Complaint, except denies all aspects of this allegation that may refer to Defendant Supovitz and refers all rulings of law to this Court

51. Denies each and every allegation contained in paragraph marked and numbered "51" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

52. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs "1" through "51" of the Amended Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated "52" of the Amended Complaint.

53. Denies each and every allegation contained in paragraph marked and numbered "53" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

54. Denies each and every allegation contained in paragraph marked and numbered "54" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

55. Denies each and every allegation contained in paragraph marked and numbered "55" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

56. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs "1" through "55" of the Amended Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated "56" of the Amended Complaint.

57. Denies each and every allegation contained in paragraph marked and numbered "57" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

58. Denies each and every allegation contained in paragraph marked and numbered “58” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

59. Denies each and every allegation contained in paragraph marked and numbered “59” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

60. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs “1” through “59” of the Amended Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated “60” of the Amended Complaint.

61. Denies each and every allegation contained in paragraph marked and numbered “61” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

62. Denies each and every allegation contained in paragraph marked and numbered “62” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

63. Denies each and every allegation contained in paragraph marked and numbered “63” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

64. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs “1” through “63” of the Amended Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated “64” of the Amended Complaint.

65. Denies each and every allegation contained in paragraph marked and numbered “65” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

66. Denies each and every allegation contained in paragraph marked and numbered “66” of the Plaintiff’s Amended Complaint and refers all rulings of law to this Court.

67. Denies each and every allegation contained in paragraph marked and numbered "67" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

68. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs "1" through "67" of the Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated "68" of the Complaint.

69. Denies each and every allegation contained in paragraph marked and numbered "69" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

70. Repeats and reiterates each and every admission and denial to the allegations set forth in paragraphs "1" through "69" of the Amended Complaint with the same force and effect as if herein set forth at length in answer to the allegations set forth in paragraph designated "70" of the Amended Complaint.

71. Denies each and every allegation contained in paragraph marked and numbered "71" of the Plaintiff's Amended Complaint and refers all rulings of law to this Court.

72. Denies all other allegations set forth in the Amended Complaint not addressed above, including those statements set forth in paragraphs marked and numbered "72", "73", "74", "75", "76", "77", "78", "79" and "80" of the Plaintiff's Amended Complaint to the extent that they may be considered allegations.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

73. This Court lacks subject matter jurisdiction over this matter.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

74. If the injuries and damages were sustained by the Plaintiff at the time and place and in the manner alleged in the Amended Complaint, such damages and injuries were

attributable, in whole or in part, to the culpable conduct of Plaintiff, and if any damages are recoverable against Defendant Supovitz, the amount of such damages shall be diminished in proportion with the culpable conduct which caused the damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

75. Plaintiff failed to mitigate, obviate, diminish or otherwise act to lessen or reduce the injuries, damages and disabilities alleged in the Plaintiff's Amended Complaint.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

76. The Plaintiff's Amended Complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

77. The injuries, losses and damages and occurrences alleged in the Amended Complaint were the result of an independent and intervening and superseding cause or causes over which Defendant Supovitz had no control or right of control and in no way participated.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

78. Plaintiff lacks legal standing to commence this action.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

79. There was a previous action involving a common set of facts pending in the Court of Claims under Claim Number 11884 brought by Plaintiff Louise Meanwell on behalf of M.B. against similar Defendants in which Hon. Frank Milano granted Defendant Supovitz's pre-answer motion to dismiss in a Decision and Order dated December 16, 2010.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

80. That the Plaintiff is not entitled to recover the punitive damages demanded in the Plaintiff's Amended Complaint as the awarding of same would be in violation of Defendant

Supovitz's rights under the Constitution of the United States of America and under the Constitution of the State of New York and more particularly, but not exclusively, in violation of Defendant Supovitz's rights.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

81. The claims asserted in the Amended Complaint are barred, in whole or in part, by the applicable statute of limitations.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

82. Defendant Supovitz was at no time a state actor or acting in concert with state actors for purposes of 42 U.S.C. § 1983, and at all times mentioned in the Plaintiff's Amended Complaint, Defendant Supovitz acted in a justified and reasonable manner, in good faith, and without malice.

WHEREFORE, Defendant Ruth Supovitz, i/s/h/a Ruth Supovitz, as attorney in both personal and professional capacity, demands judgment dismissing the Amended Complaint herein, together with the costs and disbursements of this action, and any other relief that this Court deems just and proper.

Dated: July 12, 2013
Albany, New York

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP

By:


THERESA B. MARANGAS

Bar Roll No.: 511376

Attorneys for Defendant

*Defendant, Ruth Supovitz i/s/h/a Ruth Supovitz, as
attorney in both personal and professional capacity*

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